



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087674,726	07/02/96	MUSKOWITZ	2377/11

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LM01/0317

EXAMINER

LUTHER, W

ART UNIT

2731

PAPER NUMBER

DATE MAILED: 03/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/674,726	Applicant(s) MOSKOWITZ et al
	Examiner William Luther	Group Art Unit 2731

☒ Responsive to communication(s) filed on Dec 30, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 3-6 and 16-22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 3-6 and 16-22 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Dec 30, 1998 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. This action is in response to Amendment received December 30, 1998.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).


3. Claims 3-6, 16-20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art pages 32-38. Applicant merely proposes to set up an electronic market similar to or the same as the NASDAQ Market for selling, buying, or exchanging the right to bandwidth components, treated as commodities, in a manner similar to that employed in the NASDAQ Market for selling, buying and exchanging other commodities. To the extent that: there is not admission to the claim scope [emphasis added; see definitions provided by remarks of Amendment

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B] of division of bandwidth resources representing bandwidth securitization and transferring the instrument thereof it would have been obvious to one having ordinary skill in the art because it is merely another commodity. It should be understood that it would be obvious to provide for any commodity on a well known market. Futures, options, electricity, water, and the like or priced, bought and sold by electronic systems as common place. It is considered within the level of skill of an ordinary artisan and would have been obvious for the benefit of providing for any newer commodity.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Luther whose telephone number is (703) 308-6609.

William Luther
Patent Examiner
March 15, 1999



(703) 308-6609